

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ANDREW MASSARELLI
and MICHELLE MASSARELLI,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant-Third
Party Plaintiff,

v.

BUDGET RENT A CAR
CORPORATION and
JEFFREY McCARTHY,

Third Party
Defendants.

C.A. No. 05-266-KAJ

ANSWER OF JEFFREY McCARTHY

COMES NOW the Third Party Defendant, Jeffrey McCarthy
(hereinafter referred to as McCarthy), by and through his
attorney, and responds to the Third Party Complaint as follows:

FIRST DEFENSE

1. Admitted upon information and belief.
2. No response required.

COUNT I

(Indemnification Against Budget Rent A Car Corporation)

- 2.(sic) No response required from this defendant.

COUNT II

(Contribution against Jeffrey McCarthy)

3. Admitted.
4. Denied as stated. McCarthy was operating a truck which

was pulling a trailer. McCarthy signaled a right turn with his turn signal. McCarthy moved somewhat to the left in order to make a turn into an alley. Phillip Nguyen drove his vehicle into McCarthy's vehicle.

5. Denied.

6. Admitted that the plaintiffs claim to have suffered damages.

7. Denied. McCarthy cannot be a joint tortfeasor because any claim by plaintiff against McCarthy is barred by the doctrine of injury by fellow servant as both McCarthy and Masserelli were employees of the City of Dover at the time of the collision.

SECOND DEFENSE

The third party complaint fails to state a claim upon which relief may be granted.

WHEREFORE, Third Party Defendant demands judgment against the United States for costs and such other and further relief as the Court deems fair and just.

SCHMITTINGER & RODRIGUEZ, P.A.

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